

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ISAAC ARNOLD, JR., ALISON R. §
BAUMANN, HUGH R. MARSHALL, §
CARROLL R. RAY, LILLIE ROBERTSON, §
CORBIN J. ROBERTSON, JR., §
WILHELMINA E. ROBERTSON, §
CHAMPION TRAYLOR III, WILHELMINA §
B. TRAYLOR, ROBERT BARNHART, AS §
TRUSTEE OF THE ROBERT J. §
BARNHART REVOCABLE TRUST, §
LEGACY TRUST COMPANY, N.A., AS §
TRUSTEE OF THE DOUGLAS B. §
MARSHALL JR. NON-EXEMPT TRUST §
FOR DOUGLAS B. MARSHALL III, §
JOSEPH A. SCOTT, RUSSELL SCOTT III, §
ALEXANDER I. WRIGHT AND RICHARD §
E. MONROE, JR., AS CO-TRUSTEES OF §
THE ALEXANDER I. WRIGHT 2006 GST §
TRUST, EMILY C.J. SIMMONS AND §
RICHARD E. MONROE, AS CO- §
TRUSTEES OF THE EMILY C.J. §
SIMMONS 2006 GST TRUST, HANNAH C. §
SIMMONS AND RICHARD E. MONROE §
JR., AS CO-TRUSTEES OF THE HANNAH §
C. SIMMONS 2006 GST TRUST, AND §
ANDREW C. SCOTT, AS TRUSTEE OF §
THE ANDREW C. SCOTT 2006 GST §
TRUST §

Plaintiffs,

v.

BLUE RIDGE LANDFILL TX, LP D/B/A
BLUE RIDGE LANDFILL,

Defendant.

CIVIL ACTION NO. _____

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THIS COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Blue Ridge Landfill TX, LP (“Blue Ridge”) files this Notice of Removal to remove the above-styled action in the 11th Division Business Court of Fort Bend County, Texas (the “state court action”) under cause number 24-BC11A-0024 to the United States District Court for the Southern District of Texas, Houston Division.

NATURE OF THE ACTION

1. Plaintiffs, Isaac Arnold, Jr., Alison R. Baumann, Hugh R. Marshall, Carroll R. Ray, Lillie Robertson, Corbin J. Robertson, Jr., Wilhelmina E. Robertson, Champion Traylor III, Wilhelmina B. Traylor, Robert Barnhart, as Trustee of the Robert J. Barnhart Revocable Trust, Legacy Trust Company, N.A., as Trustee of the Douglas B. Marshall Jr. Non-Exempt Trust for Douglas B. Marshall III, Joseph A. Scott, Russell Scott III, Alexander I. Wright and Richard E. Monroe, Jr., as Co-Trustees of the Alexander I. Wright 2006 GST Trust, Emily C.J. Simmons and Richard E. Monroe, as Co-Trustees of the Emily C.J. Simmons 2006 GST Trust, Hannah C. Simmons and Richard E. Monroe Jr., as Co-Trustees of the Hannah C. Simmons 2006 GST Trust, and Andrew C. Scott, as Trustee of the Andrew C. Scott 2006 GST Trust (collectively, “Plaintiffs”) filed the state court action seeking a declaratory judgment related to royalties related to the disposal of solid waste at a landfill in Fort Bend County, Texas (the “Blue Ridge Landfill”).

2. Plaintiffs sold approximately 598 acres of land for the construction of a landfill. As part of that transaction, the buyer and sellers entered into a Letter Agreement that provided for a five percent royalty on “Gate Revenues” from the “final disposal of solid waste in the sanitary landfill operated on the Property.” Many years after the purchase of the land from the Plaintiffs, the Defendant purchased additional land adjacent to the landfill. Plaintiffs seek a declaratory judgment that they are entitled to a royalty for waste disposed of on the adjacent property and for

breach of contract. Plaintiffs seek additional payments in the amount of five percent of the revenues received by Blue Ridge for the disposal of waste on the adjacent property which Plaintiffs assert to be at least \$1 million. Pursuant to 28 U.S.C. § 1446(a), copies of Plaintiff's Petition and Summons served upon Defendant are attached as **Exhibit 1**.

VENUE

3. Venue is proper in this District and Division pursuant to 28 U.S.C. § 1441(a), which permits removal to "the district court of the United States for the district and division embracing the place where [the state action] is pending."

TIMELINESS OF REMOVAL

4. Removal of this matter on this 5th day of December 2024 is timely. Counsel for Blue Ridge was notified of the initial pleading in the state court action on November 12, 2024 and Blue Ridge was served with citation on November 18, 2024. The state court action has been pending for less than one year as required by 28 U.S.C. § 1446(c).

GROUND FOR REMOVAL: DIVERSITY JURISDICTION

5. Removal may be effected for any civil action brought in state court over which the district courts of the United States have original jurisdiction. 28 U.S.C. § 1441(a). This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000, exclusive of interests and costs, and is between citizens of different states.

6. The Plaintiffs are as follows:

Plaintiff	Citizenship
Isaac Arnold, Jr	Texas
Alison R. Baumann	California

Hugh R. Marshall	Nevada
Carroll R. Ray	Texas
Lillie Robertson	Texas
Corbin J. Robertson, Jr.	Texas
Wilhelmina E. Robertson	Texas
Champion Traylor III	Texas
Robert Barnhart, as Trustee of the Robert J. Barnhart Revocable Trust	Texas
Legacy Trust Company, N.A., as Trustee of the Douglas B. Marshall Jr. Non-Exempt Trust for Douglas B. Marshall III	principal place of business in Houston, Texas, and therefore, a citizen of Texas
Joseph A. Scott	Colorado
Plaintiff Russell Scott III	Alabama
Andrew C. Scott, as Trustee of the Andrew C. Scott 2006 GST Trust	Colorado
Alexander I. Wright, as Co-Trustee of the Alexander I. Wright 2006 GST Trust	American citizen who permanently resides in the United Kingdom
Emily C.J. Simmons, as Co-Trustee of the Emily C.J. Simmons 2006 GST Trust	New Jersey
Hannah C. Simmons, as Co-Trustee of the Hannah C. Simmons 2006 GST Trust	Hawaii
Richard E. Monroe Jr., as C-Trustee of the Alexander I. Wright 2006 GST Trust, Co-Trustee of the Emily C.J. Simmons 2006 GST Trust, and Co-Trustee of the Hannah C. Simmons 2006 GST Trust	Texas

7. Defendant Blue Ridge Texas LP is a Delaware limited partnership. The citizenship of a limited partnership is determined by the citizenship of each of its partners. *Harvey v. Grey*

Wolf Drilling Co., 542 F.3d 1077, 1079 (5th Cir. 2008). Blue Ridge's partners are: (1) Allied Waste Landfill Holdings, Inc. ("Allied Waste") and (2) Allied Waste Systems Holdings, Inc. Both of these entities are Delaware corporations that maintain their principal places of business in Arizona.

8. Accordingly, Plaintiffs are citizens of Texas, California, Nevada, Alabama, New Jersey, Colorado, Hawaii and the United Kingdom and Blue Ridge and Allied Waste are both citizens of the States of Delaware and Arizona. 28 U.S.C. § 1332(c)(1). Because neither Defendant is a citizen of the same state as Plaintiff, complete diversity exists at the time of this removal. *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005).

9. Although Blue Ridge disputes Plaintiffs' entitlement to any relief, Plaintiffs have asserted they have the authority to seek additional payments from Blue Ridge. The amount in controversy thus exceeds the \$75,000 threshold for the purpose of establishing diversity jurisdiction over this dispute. 28 U.S.C. §§ 1332(a) and 1446(c)(2). This Notice of Removal and Exhibit 1, incorporated herein by reference, establish by a preponderance of the evidence that the amount in controversy in this matter exceeds \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1446(c)(2).

10. Because the parties are completely diverse and the amount in controversy exceeds \$75,000, this Court has original jurisdiction over this dispute pursuant to 28 U.S.C. § 1332(a). The state court action is therefore properly removable pursuant to 28 U.S.C. § 1441.

11. Upon filing this Notice of Removal, Blue Ridge will provide prompt, written notice thereof to Plaintiffs and will file a copy of the Notice with the clerk of the 11th Division Business Court of Fort Bend County, Texas in order to effect the removal. 28 U.S.C. § 1446(d).

12. Consistent with 28 U.S.C. § 1446(a) and local Rule 81 of the United States District Court for the Southern District of Texas, the following documents are attached to this Notice of Removal:

- All executed process in the case (Exhibit 2);
- Pleadings asserting causes of action, e.g., petitions, interventions, and all answers to such pleadings (Exhibit 3);
- All orders signed by the state judge (Exhibit 4);
- The docket sheet from the state court action (Exhibit 5);
- An index of matters being filed (Exhibit 6); and
- A list of all counsel of record, including addresses, telephone numbers and parties represented (Exhibit 7).

CONCLUSION AND PRAYER

For the reasons set forth herein, Blue Ridge respectfully requests that this Court issue the orders necessary to cause removal of this case from the 11th Division Business Court of Fort Bend County, Texas to this Court and make all other and further orders as may be appropriate.

Dated: December 5, 2024

Respectfully Submitted,

BECK REDDEN LLP

By: /s/ Troy Ford

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**ATTORNEYS FOR DEFENDANT
BLUE RIDGE LANDFILL TX, LP**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on all counsel of record in a manner authorized by Federal Rule of Civil Procedure 5(b)(1) on December 5, 2024.

/s/ *Troy Ford*
Troy Ford